

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

IN RE PATENT APPLICATION OF: AMJADI, Kamran  
SERIAL NO.: 09/251,480  
ATTORNEY DOCKET NO: 031792-0311576  
FILING DATE: February 17, 1999  
ART UNIT : 3291  
EXAMINER DINH, KHANH Q  
FOR: INCENTIVE NETWORK

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**APPELLANT'S BRIEF ON APPEAL UNDER 37 C.F.R. § 41.37**

**Mail Stop Appeal Brief - Patents**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA. 22313-1450

Dear Sir:

Further to the Notice of Appeal filed on January 6, 2006 and the Notice of Panel Decision dated March 2, 2006, Appellants respectfully submit Appellant's Brief on Appeal pursuant to 37 C.F.R. § 41.37.

Appellant has filed concurrently herewith a petition for a three month extension of the time. 37 C.F.R. 1.17 (a)(3). The Director is authorized to charge the \$510.00 fee to cover the 3 month petition fee, as well as the \$250.00 fee for filing an Appeal Brief pursuant to 37 C.F.R. § 41.20(b)(2). The Director is further authorized to charge any additional fees that may be due, or credit any overpayment of same to Deposit Account No. 033975 (**Ref. No. 031792-0311576**).

**REQUIREMENTS OF 37 C.F.R. § 41.37**

**I. 37 C.F.R. § 41.37(c)(1)(i) – Real Party in Interest**

The real party in interest is e-centives, Inc., by virtue of an assignment recorded on July 12, 1999 at Reel/Frame No. 010081/0039.

**II. 37 C.F.R. § 41.37(c)(1)(ii) - Related Appeals and Interferences**

Appellant is aware of no related appeals or interferences.

**III. 37 C.F.R. § 41.37(c)(1)(iii) - Status of Claims**

Pending: Claims 1-59 are pending.

Cancelled: No claims have been cancelled.

Rejected: Claims 1-59 stand rejected.

Allowed: No claims have been allowed.

On Appeal: The rejections of claims 1-59 are appealed.

**IV. 37 C.F.R. § 41.37(c)(1)(iv) - Status of Amendments**

No claim amendments have been filed subsequent to the Final Action mailed October 6, 2005 (hereinafter the “Final Action”).

**V. 37 C.F.R. § 41.37(c)(1)(v) - Summary of Claimed Subject Matter**

**A. Overview of the Disclosed Invention**

Prior to setting forth a showing of specific support for the claimed subject matter, Appellant first provides the following overview of the disclosed invention. Various aspects of the invention relate to computer-implemented methods, systems, and apparatus for providing secure,

targeted and trackable incentives (e.g., coupons) to consumers who access a common incentive host server via a client device (e.g., a personal computer) through any one of a number of different other network servers (e.g. network servers on which different websites are hosted) within a network. According to one implementation, each registered client terminal has a unique ID (UID) associated with it<sup>1</sup> and each network server has a network ID (NID) associated with it.

According to one aspect of the invention, the incentive host server may store information about an entire collection of coupons that are available through the network but, for any specific request, only a portion of the coupons are made available based on information associated with the UID (e.g., demographic information and/or prior activity) and the NID (e.g., the website or other network server from which the request was made). Thus, in addition to being able to do traditional demographic targeting (e.g., based on information associated with the UID), selected coupons can be made available (or not) based on the website through which the user accessed the system.

According to one aspect of the invention the incentive host server is a common incentive server (e.g., an application service provider) for serving coupons (and/or other incentives) to users who may visit any of a number of different websites (hosted on different network servers). Thus, regardless of which website through which a request is made, the relevant coupons are served by a common incentive host server. Thus, when a request for coupons is made by a user through a website, the UID *and* NID can be passed to the incentive host server, and both can be used to determine which subset of the entire group of stored incentives to make available to a

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<sup>1</sup> For example, a UID may be downloaded to and stored on the client terminal when a user registers with the incentive host server via a client terminal. Thereafter, whenever a request for access to coupons from the incentive host server is made (via the client terminal), the UID stored on the client terminal is passed along with the request. Whenever a coupon is printed, the UID may be printed on the coupon, providing at least one measure of security and enabling tracking of the coupon usage by UID.

particular consumer on a particular visit, based on both the UID and the NID of the network server (e.g., website host) through which the request was made.

Targeting based on both the UID and the NID enables the system to show only those coupons that meet criteria that may be associated with the UID and the NID (e.g. to filter in order to include or exclude) the coupons based on rules or characteristics associated with the NID (e.g. the website from which the request was made). For example, certain coupons may be made available to visitors of the “washingtonpost.com” website and different coupons may be made available to visitors of other websites, such as “pets.com.” Further filtering (e.g., inclusion or exclusion) may be based on demographic information associated with the UID of user’s terminal.

Figure 4, reproduced to the right for the Board’s convenience, is helpful in understanding the subject matter of the claims, including one aspect of the network architecture and a flow of information based on an example showing one network server.<sup>2</sup> Figure 4 is an “operational flow diagram illustrating an incentive distribution process in a manner consistent with the principles of the present invention.” Specification, pg. 14, lines 2-7. The network (as shown for example in Figure 4) includes one

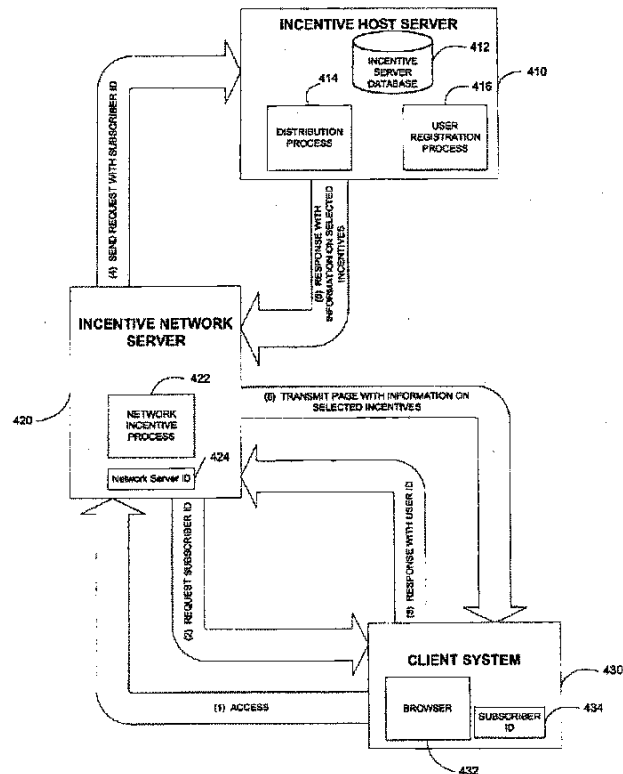


FIG. 4

<sup>2</sup> As disclosed, and in practice, there will be many network servers within the network. See, e.g. Attachment A.

(common) incentive host server 410, which includes an incentive server database 412, a distribution process subsystem 414, and a subscriber registration subsystem 416. Specification, pg. 14 lines 8-14. The network also includes many incentive network servers 420 (one of which is shown in Figure 4), which include a network incentive process subsystem 422 and storage 424 for storing, among other things, a Network Server ID (NID).<sup>3</sup> *Id.* The client system 430 includes at least a browser program 430 and a storage mechanism 434 for, among other things, a unique (subscriber) ID (UID). *Id.*

As further shown in the illustrative demonstrative diagram (see attached Exhibit A), the system generally will include a number (N) of network servers, each of which communicates with a common incentive host server. Each of the incentive network servers can be accessed by different client terminals. To further illustrate an important part of the claimed invention, a partial data flow diagram is shown in connection with the system architecture in the illustrative drawing. For example, if a user at client terminal 1 wishes to access coupons by visiting network server 1 (for example, a server for Yahoo.com website) then as indicated the access request from client terminal 1 to Yahoo.com will include the access request plus UID<sub>1</sub> (see item A). That request will be passed on from the Yahoo.com website to the incentive host server 410, with UID<sub>1</sub> and NID<sub>1</sub> (which is the network ID in this example for the Yahoo.com website, see item B). In response to that, the incentive host server 410 will determine the appropriate subset of coupons available (e.g., based on filtering the available coupons) to produce the subset available for the UID<sub>1</sub>/NID<sub>1</sub> combination (step C). If, however, a request from the same client terminal 1 is made through the washingtonpost.com website (for example, via server 2 for

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<sup>3</sup> Because the network servers are assigned a NID, and because the NID is used as part of the determination of which coupons should be made available, not every website on the Internet would qualify as a network server in accordance with the invention. The server would need to have a NID assigned to it.

washingtonpost.com), then that access request from the client terminal to the washingtonpost.com website will include  $UID_1$  (because it originated from client terminal 1) (see item D). The access request would be passed on from the washingtonpost.com website to the incentive host server 410 along with  $UID_1$  and  $NID_2$  (which in the example is the network ID for the "washingtonpost.com" website) (see step E). In response, the incentive host server 410 will determine the subset of coupons available for the  $UID_1/NID_2$  combination (see step F). Thus, even though two requests are made from the same client terminal, what is presented in response to those requests may differ based on filtering parameters associated with the different network servers (for example "Yahoo.com" or "washingtonpost.com") through which the user made the request. One last example is shown where if a different client terminal (client terminal 2) is used to issue an access request through the "washingtonpost.com" website (hosted at network server 2), then the access request from the client terminal to the "washingtonpost.com" website will include the access request plus  $UID_2$  (the identifier for client terminal 2) (see step G). In this case, the "washingtonpost.com" website will pass the access request to the incentive host server along with  $UID_2$  and  $NID_2$  (the network ID for the "washingtonpost.com" website in this example) (see step H). In response, the incentive host server will determine the subset of coupons available for the  $UID_2/NID_2$  combination (see step I).

Among other things, Appellant's system is advantageous to consumers, website operators who do not have a secure, trackable coupon delivery system and application service providers who deliver coupons and other incentives.

Among many other advantages, from the client (consumer) perspective, the system is very consumer friendly. For example, a user need only register once to be able to obtain coupons from the common incentive host server through any one of a number of different

websites within the system. This enables access to available incentives through more than one website without the need to create personal accounts on each site. That registration will cause a UID to be stored on the client terminal through which registration occurs.

From the network servers' website operator standpoint ("Yahoo.com", "washingtonpost.com" and other websites), the application service provider's service model means that the website operators need not build and maintain complex systems to enable secure, targeted, trackable delivery of coupons and other incentives, yet they can offer their website visitors such coupons.

From the incentive host server's perspective (the application service provider), it can provide an application service provider (ASP) model that enables them to build a single system that can service many websites and enable the application service provider to leverage a large number of existing websites that already have a large number of visitors. This enables the ASP to broaden the distribution of coupons to many consumers without having to spend significant advertising dollars to attract consumers such as would be required with a standard internet coupon portal. Other advantages exist. This overall structure and these functions clearly distinguish over the prior art for at least the reasons set forth below.

## **B. Summary of Common Features of the Independent Claims**

### **1. A Common Incentive Host Server and at least Two Network Servers**

Most of the independent claims recite a (common) incentive host server plus at least two (or a plurality) of network servers. Thus, referring back to Figure 4, there are at least two network servers 420, each having its own Network Server ID (or NID), through which consumers can access the common incentive host server via different client devices 430. Each of

the client devices 430 can have its own UID. This network architecture (and the benefits that flow therefrom), in the context of a coupon distribution system, are not disclosed in the prior art relied upon by the Examiner.

The Specification further explains that the plurality of network servers provides consumers with more than one avenue to participate in the incentive system and may result in different incentives based on the network identifiers (NIDs) associated with the different network servers in the incentive network (and/or the UIDs). In this regard, the specification recites:

By providing in each network server an access mechanism to the incentive server, client systems requesting documents from a network server are presented with information on selected incentives. For example, a consumer who frequents more than one general http site (often referred to as "Web portals") such as Yahoo.com and USAToday.com may access his/her available incentives through both those sites. This increases the consumer's exposure and access to the incentives without being intrusive. It also facilitates the provision of personalized information for the consumer on both sites without the need to create separate accounts on each site.

Specification, pg. 18, line 19- pg. 19 line 7.

Additionally, the common incentive host server for disparate websites (e.g., Yahoo and USAToday) avoids the need for each of the websites to build and maintain their own incentive server system (e.g. coupon server) to provide secure, targeted and trackable coupons.

## **2. Determining Available Incentives Based on at least a NID**

Each of the thirteen independent claims of the application expressly recites a network server identifier, network server identification, or Network ID (collectively referred to as a "NID") to determine the incentives available to a consumer. Each of the claims also recites the incentive host server determining available incentives or determining a set of one or more coupons to make available. This determination can be made based at least on the NID (and if



desired, based on information associated with the UID). None of the prior art shows making such a determination based on a NID.

When a consumer accesses an incentive network server 420, the incentive network server 420 receives the UID from the client system 430. The incentive network server 420 then passes the consumer request for access to incentives to the incentive host server 410. In so doing, the incentive network server 420 passes the UID *and the NID*. The incentive host server 410 uses the NID as a filter criteria for determining which incentives are to be made available to the consumer.<sup>4</sup> Incentives may be included or excluded based on the NID. As a result of the use of a NID, the incentives made available to any given consumer may differ depending upon the website through which the consumer made the request. Thus, incentives may be targeted based not only on the UID, but also based on from which network server, in the incentive network, the request came.<sup>5</sup>

Each NID is an identifier associated with one of the network servers through which different users can access a common incentive host server. Thus, the NID is separate and distinct from the first identifier (UID) which is stored at the client device. The NID is a separate factor that can be used to filter or target specific incentives based on where a request came from. Thus, while some prior systems may perform some type of demographic targeting (e.g. based on a consumer identifier), none of the art relied on shows use of a NID for these purposes.

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<sup>4</sup> The specification explains that “[w]hen a Network Server ID is provided, the incentive server may also locate an exclusion or inclusion list for the identified server and apply the list to filter in or out specific incentives.” Specification, pg. 17, lines 53-20.

<sup>5</sup> The specification distinguishes the NID from a customer ID or “subscriber ID.” In this regard, the specification expressly discusses them separately. See Figure 4 (expressly showing a subscriber ID in the client system and a network server ID in the incentive network server); and Specification, pg. 4 line 16- pg. 6 line 2 (“reflecting available incentives corresponding to the identifying information may include receiving incentive information reflecting a selection of incentives based on at least one of the subscriber ID and the server ID.”).

### **C. Showing of Specific Support for Each of the Independent Claims**

While the foregoing claim features are applicable to various ones of each of the independent claims, in order to fulfill the requirement under 37 C.F.R. § 41.37(c)(1)(v), the following succinctly shows support for claim features that have not been addressed above.

#### **1. Claim 1**

Although each of the independent claims recites use of a NID in some form, the independent claims recite different subject matter as well. For example, claim 1 recites a computer implemented method for providing access to incentives via a computer network. The claim specifically recites “receiving, at a network server, an access request from a client device associated with the user” (see Specification at least at pg. 10, line 12 and Fig. 2), “transmitting a first identifier and a network server identifier (NID) corresponding to the access request to the incentive host server” (see Specification at least at pg. 16, lines 11-14), and “determining at the incentive host server available incentives using at least the first identifier and the NID, wherein the NID is used to identify available incentives in an incentive server database associated with the NID” (see Specification at least at pg. 5, lines 15-18; pg. 15, lines 9-15; pg. 17, lines 11-18; and Fig. 6, Step 620).

#### **2. Claim 8**

In addition to the foregoing, independent claim 8 specifically recites “transmitting an access request to access one of the network servers in the network.” See Specification at least at pg. 4, lines 16-19 and pg. 14, lines 15-18.

#### **3. Claim 11**

Claim 11 is written in means-plus-function format pursuant to 35 U.S.C. § 112, ¶ 6. Specifically, claim 11 recites an “access request receiving means” (corresponding structure can

be found at least at Fig. 2, element 239 and pg. 11, lines 11-15), “identifying information transmitting means” (corresponding structure can be found at least at pg. 15, lines 5-9), “incentive information determining means” (corresponding structure can be found at least at pg. 15, lines 9-15 and pg. 17, lines 11-18), and “incentive transmitting means” (corresponding structure can be found at least at pg. 15, lines 14-15).

#### **4. Claim 18**

Claim 18 is written in means-plus-function format pursuant to 35 U.S.C. § 112, ¶ 6. Specifically, claim 18 recites an “access request transmitting means” (corresponding structure can be found at least at pg. 14, lines 15-18 and Fig. 2, element 229), “user request receiving means” (corresponding structure can be found at least at pg. 11, lines 11-15 and Fig. 2, Step 239), “transmitting means” (corresponding structure can be found at least at pg. 15, lines 5-9), “incentive information determining means” (corresponding structure can be found at least at pg. 15, lines 9-15 and pg. 17, lines 11-18).

#### **5. Claim 21**

Claim 21 recites a system for distributing information in a network. In particular, it recites “a host server having at least one of an incentive distribution module and an account creation module accessible to a plurality of user.” See Specification at least at Fig. 4, element 416; pg. 14, lines 8-10; and pg. 18, lines 6-8. The claim further specifically recites “a plurality of network server coupled to and selectively accessible to the host server for providing identifying information including a first identifier and a network server identifier (NID) to the host server, wherein the identifying information is used by the incentive distribution module, at least in part, to identify available incentives associated with the NID” (see Specification at least at pg. 14, lines 2-6 and pg. 18, line 57- pg. 19, line 5) and “at least one client machine coupled to

and selectively accessible to at least one of the plurality of network servers” (see Specification at least at pg. 9 line 18 - pg. 10 line 11).

**6. Claim 34**

Claim 34 recites a computer-implemented method for providing coupons over a network. In particular, it recites “receiving a request for a document associated with a network server from a client device” (see Specification at least at pg. 14, lines 15-18 and Fig. 5, Step 510) and “receiving, by a host server, information regarding the document request, wherein the received information includes a network server identifier (NID) associated with the network server” (see Specification at least at pg. 15, lines 9-14; pg. 17, lines 16-18; and Fig. 5, Step 530) and “determining, at the host server, information regarding a set of one or more coupons from a plurality of coupons based at least in part on the NID” (see Specification at least at pg. 15, lines 9-15; pg. 17, lines 11-20; and Fig 6, Step 620).

**7. Claim 39**

Similarly, Claim 39 recites a computer-implemented method performed by an incentive host server for providing coupons over a network. In particular, it recites “receiving information regarding a request from a client device for a document received at one of a plurality of network servers, wherein the information received by the incentive host server includes a network server identifier corresponding to the one of the plurality of network servers” (see Specification at least at pg. 16 lines 8-14 and Fig. 5, Step 510 and 530) and “determining information regarding a set of one or more coupons from a plurality of coupons based at least in part on the network server identifier” (see Specification at least at pg. 17 lines 11-18, and Fig. 6, Step 610 and 620).

**8. Claim 44**

Claim 44 recites a system for providing coupons via a network, specifically comprising “a client device associated for accessing the network; a plurality of network servers for providing web pages” (see Specification at least at pg. 10, line 12 and pg. 19 lines 2-7), and “wherein the host server is capable of receiving a network server identifier associated with at least one of the network servers, receiving a first identifier stored on the client device” (see Specification at least at pg. 14 lines 8-14).

**9. Claim 48**

Claim 48 recites a system for providing coupons over a network, specifically comprising “one or more databases for storing information regarding a plurality of coupons, a plurality of first identifiers, and a plurality of network server identifiers.” See Specification at least at pg. 14 lines 8-14.

**10. Claim 52 and 53**

Claim 52 and 53 are written in means-plus-function format pursuant to 35 U.S.C. § 112, ¶ 6. Specifically, claim 52 recites “means for receiving a request” (corresponding structure can be found at least at pg. 10, lines 12-15; pg. 11, lines 11-15; Fig. 2, element 239; and Fig. 4, element 420). Both claims 52 and 53 recite, “means for receiving information” (corresponding structure can be found at least at pg. 17, lines 11-13; Fig. 4, element 410; and Fig. 6, element 610), “means for receiving a first identifier” (corresponding structure can be found at least at pg. 17, lines 11-13; Fig. 4, element 410; and Fig. 6, element 610), “means for determining information” (corresponding structure can be found at least at pg. 17, lines 11-18 and Fig. 6, element 610), and “means for transmitting” (corresponding structure can be found at least at pg. 15 lines 14-15).

**11. Claim 54**

Claim 54 recites an incentive host server for use in an incentive network. In particular, the incentive host server comprising: an incentive database... a registration module...and an incentive determination module.” See Specification at least at pg. 14, lines 8-14 and Fig. 4, elements 410, 412 and 414.

**12. Claim 57**

Claim 57 recites an incentive network. Further it claims an, “incentive host server comprises...a network interface for receiving from any of the incentive network servers a request for access to at least some of the stored incentives, and for receiving with the request a Network ID (NID) associated with the incentive network server from which the request is received.” See Specification at least at pg. 17 lines 11-13; Fig. 2, element 239; and Fig. 4, element 410.

**D. Showing of Specific Support for Separately Argued Dependent Claims**

**1. Dependent claims 3 and 13**

Dependent claim 3 recites, “determining whether an indication exists that the user subscribes to receive information associated with available incentives.” Similarly, claim 13 recites, “subscriber determining means for determining whether an indication exists that the user subscribes to receive information associated with available incentives.” See Fig. 4, element 416; Fig. 5.

**2. Claim 5 and 15**

Claim 5 recites, “transmitting an identifier corresponding to the client device to the incentive host server; and transmitting a network server identifier corresponding to the network server.” See Specification at least at pg. 14, lines 8-14; pg. 15, lines 5-15; Fig. 5, element 530.

Claim 15 is written in means-plus-function format pursuant to 35 U.S.C. § 112, ¶ 6. Specifically, claim 15 recites, “identification transmitting means for transmitting an identifier corresponding to the client device to the incentive host server and transmitting a network server identifier corresponding to the network server.” Corresponding structure can be found at least at pg. 14, lines 8-14; pg. 15, lines 5-15; Fig. 4, element 420; and Fig. 5, element 530.

**3. Dependent claims 6 and 16**

Claim 6 recites, “wherein determining available incentives, includes: receiving incentive information reflecting a selection of incentives based on at least one of the identifier corresponding to the client device and the network server identifier corresponding to the network server.” Similarly, claim 16 recites, “wherein the incentive information determining means includes: incentive obtaining means for obtaining incentive information reflecting a selection of incentives based on at least one of the network server identifier and the identifier corresponding to the client device.” See Fig. 6.

**4. Claim 7**

Claim 7 recites, “wherein the first identifier corresponds to the device associated with the user.” See Specification at least at pg. 14, line 15- pg. 15, line 1, Fig. 4, element 430 and 434.

**5. Claim 10 and 20**

Claim 10 recites a method for determining available incentives using at least a first ID and a NID, includes, “receiving incentive information reflecting a server identification associated with the server, wherein the network server provides the NID to the incentive host server for identification of the incentive information.” Similarly, claim 20 recites, “wherein the network server provides the NID to the incentive host server for identification of the incentive information.” See Specification at least at pg. 15 lines 9-15 and pg. 17 lines 11-18.

**6. Dependent claim 17**

Claim 17 recites, “wherein the incentive information determining means includes: subscriber transmitting means for transmitting the identifier corresponding to the client device to the incentive host server.” See Fig. 5, step 530.

**7. Dependent claims 35, 40, 45, and 49**

Claim 35 recites, “transmitting a request to the client device for information to create an account; receiving, in response to the transmitted request, information regarding the account; determining a first identifier; and transmitting the determined first identifier *to the client device*.” Claim 40 recites, “transmitting a request to the client device for information to create an account; receiving, in response to the transmitted request, information regarding the account; determining a first identifier; and transmitting the first identifier *to the client device*.” Claim 45 recites, “wherein the host server is further capable of transmitting a request to the client device for information to create an account, receiving from the client device, in response to the transmitted request, information regarding the account, determining the first identifier, and *transmitting to the client device the first identifier*.” Claim 49 recites, “*transmitting a first identifier to the client device such that the client device stores the first identifier*.” See Figs. 5, 7.

**8. Dependent claim 55**

Claim 55 recites, “wherein the incentive determination module transmits information about the incentives determined to be currently available to a client device having the UID associated with the received request.” See Fig. 6.



**9. Dependent claim 56**

Claim 56 recites, “wherein the incentive determination module transmits information about the incentives determined to be currently available to the incentive network server having the NID associated with the received request.” See Fig. 6.

**10. Dependent claims 58 and 59**

Claim 58 recites, “wherein the information about the incentives determined to be currently available to the UID and NID combination is transmitted to a client device having the UID associated with the client device from which the request was initiated.” Claim 59 recites, “wherein the information about the incentives determined to be currently available to the UID and NID combination is transmitted to the incentive network server having the NID associated with the received request.” See Fig. 6.

**VI. 37 C.F.R. § 41.37(c)(1)(vi) - Grounds of Rejection to be Reviewed on Appeal**

Claims 1-36, 39-41, 44-50 and 52-59 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent No. 5,970,469 to Scroggie *et al.* (hereinafter “Scroggie”). See Final Action, pg. 2.

Claims 37, 38, 42, 43 and 51 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Scroggie in view of U.S. Patent No. 6,055,573 to Gardenswartz *et al.* (hereinafter “Gardenswartz”). See Final Action, pg. 10.

**VII. 37 C.F.R. § 41.37(c)(1)(vi) - Argument**

Each of the rejections in the Final Action is legally deficient because neither Scroggie nor Gardenswartz disclose at least use of a NID in connection with a decision to determine what subset of incentives are to be made available in response to a request for access to incentives

from a client device through a network server having an associated NID. Neither reference discloses the requisite architecture (e.g. multiple client devices, multiple network servers each having a NID, and a common incentive host server) or the use of a NID for filtering incentives. At best, Scroggie discloses the use of *consumer* identification information to provide a targeted incentive. But this falls well short of the claimed invention. Scroggie does not disclose use of a NID or targeting based on a first identifier and a NID. These two types of criteria are used in various implementations of the invention to determine which incentives are to be made available in response to a particular request.

Scroggie also fails to disclose use of at least two or a plurality of incentive network computers through which consumers can access a common incentive host server. Rather, in Scroggie the user accesses the incentive server directly. As discussed more thoroughly below, Scroggie and Gardenswartz also fail to teach other claim features. Gardenswartz does not remedy the deficiencies in Scroggie.

#### A. Brief Description of the Prior Art

##### 1. Scroggie Teaches Use of a Consumer ID and Consumer Purchasing Behavior

Scroggie is entitled a “System and Method for Providing Shopping Aids and Incentives to Customers Through a Computer Network.” Scroggie, Title Page. Figure 13 of Scroggie depicts the embodiment of the system relied upon by the Examiner in the rejection. Specifically, Figure 13 (reproduced to the right for the Board’s

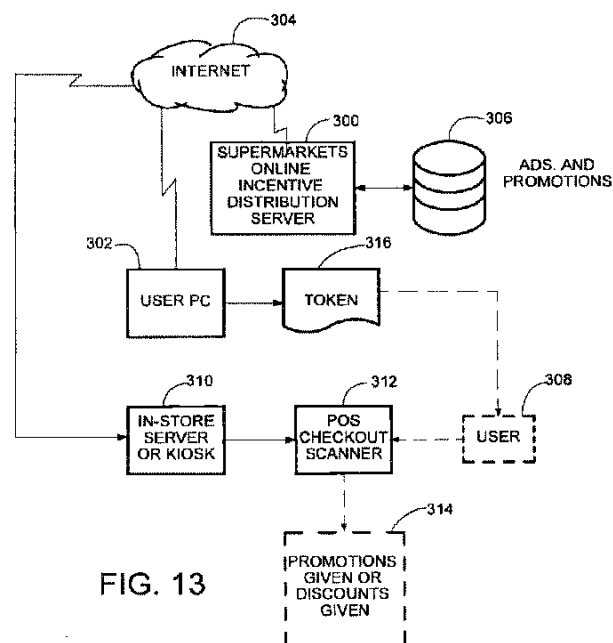


FIG. 13

convenience) shows an arrangement for distributing incentives over the Internet.

Scroggie describes Figure 13 as depicting an “incentive distribution server computer 300 and a user’s personal computer 302 connected together through a computer network.” Scroggie, col. 11, lines 44-46.<sup>6</sup> Scroggie explains that the “server 300 has an associated storage device 306 on which are stored multiple advertisements and promotions.” Scroggie, col. 11, lines 47-48. Scroggie further explains that a “user 308 logs on to *the server 300* through the network 304 and selects from a variety of offers stored on the storage device 306 by manufacturers and retailers.” Scroggie, col. 11, lines 51-53.

Thus, in Scroggie the consumer accesses the incentive distribution server 300 directly, *not* through a network server. Thus, one clear difference between Scroggie and the claimed invention is the network architecture. Scroggie does not disclose a common incentive server accessed via one of a number of network servers (e.g., other website hosts), much less network servers which each have their own NID. As a result of this difference, there is no disclosure (nor would it make sense) to have a NID parameter used to filter coupons for a particular request.

Scroggie further explains that after the consumer selects the desired coupons, the server 300 functions in one of the following two ways:

- (a) The server 300 transmits purchase incentive data to an in-store server 310 in the supermarket selected by the user 308, which gives the user an appropriate discount automatically when he or she presents items for checkout and a point-of-sale checkout scanner 312, with appropriate identification recognized by the in-store server 310. Promotions or discounts are given to the customer, as indicated at 314. The server 300 may also send an advisory message to the customer to confirm the existence of the promotion.

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<sup>6</sup> It is beyond cavil that the incentive host server in Scroggie is incentive distribution server 300. Yet, to fit the rejection to the elements of Scroggie, in some instances the Examiner reclassifies this element. See Final Action, pgs. 3, 5, 7, 11 and Section VII.B.2 below.

(b) The server 300 transmits the image of a token 316 of some kind to the user's computer 302. The token defines the coupon offer, preferably in coded form, such as in bar codes, but is not recognizable as a coupon. The token may, for example, be an encoded confirmation number. The user 308 presents the token 316 at the store he or she has selected, and receives the appropriate discount or promotion automatically.

Scroggie, col. 11, line 57 – col. 12, line 6.

Thus, this presents two options as to how the coupons selected by the consumer can be transmitted to enable the user to redeem them. Thus, the in-store server 310 merely applies discounts previously determined to be available to a user via the incentive distribution server 300.

With respect to targeting, Scroggie does not use a NID. Scroggie states that his invention may be enhanced “by employing individual purchase histories of individual customers.” Scroggie, col. 12, lines 8-9. Scroggie explains that purchase histories may be used “only if the customer provides some form of unique identification during the purchase transactions.” Scroggie, col. 12, lines 15-16. More specifically, Scroggie states that by providing identification such as a credit card, the “purchase of any number of selected items can then be associated with a specific customer id ... and a system administrator maintains a database of customer purchase histories.” Scroggie, col. 12, lines 18-22. Scroggie expressly states that it is the “customer id ... that allows the system to access the customer's purchasing history, and then select a purchasing incentive based on some aspect of the customer's prior shopping history.” Scroggie, col. 12, lines 28-32. This is simply purchase history based targeting. Scroggie discloses nothing about further targeting based on a network server through which a user accessed the incentive server.

## 2. Gardenswartz Teaches Use of Offline Purchase History

The patent to Gardenswartz is entitled “Communicating with a Computer Based on an Updated Purchase Behavior Classification of a Particular Consumer.” Gardenswartz teaches making targeted advertisements to consumers based on their observed offline purchase history. *See* Gardenswartz, abstract.

The Examiner relies on Gardenswartz to reject certain dependent claims. In so doing, the Examiner argues that “Gardenswartz further discloses demographic information regarding a user and the requested document is stored on the network server.” Final Rejection, page 10. This too is a consumer-based targeting technique and does not relate to any targeting based on a NID associated with a network server through which a user makes a request for access to an incentive host server. Nor does Gardenswartz overcome the other deficiencies of Scroggie.

### B. Scroggie Does Not Anticipate Claims 1-36, 39-41, 44-50 and 52-59 under Section 102

The Examiner erroneously alleges that Scroggie anticipates claims 1-36, 39-41, 44-50 and 52-59 under 35 U.S.C. § 102(e). The rejection is clearly legally deficient. At a minimum, Scroggie discloses neither the network architecture features (e.g. a common incentive host server and at least two network servers through which a user makes a request for access to the incentive host server), nor network servers with NIDs, nor the use of a NID to filter incentives.

Anticipation requires that a single prior art reference disclose, either expressly or inherently, each and every element of the claimed invention. *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1379, 231 USPQ2d 81, 90 (Fed. Cir. 1986). The prior art reference must describe the claimed subject matter “sufficiently to have placed a person

of ordinary skill in the field of the invention in possession of it.” *In re Spada*, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990).

**1. Scroggie Does Not Teach Use of a NID or Determining Available Incentives Based on the NID**

Claims 1-36, 39-41, 44-50 and 52-59 each recite a NID and using at least that NID to determine which incentives (of a set of incentives in an incentive server database) will be made available to the user. For example, independent claims 1 and 11 expressly recite “wherein the NID is used to identify available incentives in an incentive server database associated with the NID.” Independent claim 8 expressly recites “determining available incentives using at least the first identifier and the NID.” Independent claim 18 expressly states “determining, in response to the access request, available incentives using the first identifier and the NID.” Independent claim 21 states “the identifying information is used by the incentive distribution module, at least in part, to identify available incentives associated with the NID.” Independent claim 34 recites “determining, at the host server, information regarding a set of one or more coupons from a plurality of coupons based at least in part on the NID and the first identifier.” Independent claim 39 recites “determining information regarding a set of one or more coupons from a plurality of coupons based at least in part on the network server identifier and the first identifier.” Independent claim 44 recites “determining information regarding a set of one or more coupons from the plurality of coupons based at least in part on the network server identifier and the first identifier.” Independent claim 48 recites “determining information regarding one or more coupons based at least in part on the received network server identification and first identifier.” Independent claims 52 and 53 recite “means for determining information regarding a set of one or more coupons from plurality of coupons based at least in part on the network server identifier and the first identifier.” Independent claim 54 recites “determining currently available

incentives based on the UID [unique ID] and NID.” Independent claim 57 recites “an incentive determination module for determining currently available incentives based on the NID and UID of the client device from which the request was initiated.”

The Examiner points to no teaching or suggestion in Scroggie of a NID, much less a teaching or suggestion to use at least a NID *to determine which incentives are to be made available*, in response to a particular request.

The Examiner's position regarding Scroggie's alleged disclosure of a NID has been inconsistent, at best. First, the Examiner suggested that the claimed NID is taught by Scroggie's use of a customer ID. *See* Final Rejection, page 3, (“a network server identified (NID) (customer ID)”). However, the customer ID merely is some form of identification that identifies the customer. In this regard, Scroggie specifically identifies “a check-cashing card, a credit card, a magnetically encoded check, or other form of identification” as information that qualifies as a customer ID. Scroggie, col. 12, lines 14-18. In contrast, the claimed NID is an identifier of the network server, *not* the customer. *See* Specification, pg. 14, lines 11-13 and pg. 16, lines 13-14. In fact, the Applicant expressly distinguishes the NID from a consumer ID as discussed above. *See* Specification, pg. 14, lines 11-14; pg. 16, lines 12-14; and pg. 17, lines 14-18.

Then, in apparent recognition that the customer ID is not a NID, the Examiner suggests that purchase history may constitute the NID. For example, the Examiner argues that the claimed step of determining the available incentives using the customer identifier and the NID is taught by “using purchase incentive data to process and to select a purchasing incentive based on users' purchases and log histories.” Final Rejection, page 12. In an attempt to support this argument, the examiner cites to the discussion bridging columns 11 and 12 of Scroggie. However, the purchase history is merely a factor associated with the customer ID and does not

identify a network server. In fact, it is available “only if the customer provides some form of unique identification during the purchase transactions.” Scroggie, col. 12, lines 15-16. The customer purchase history is a factor associated with the customer ID. It does not relate to identification of a network server or NID.

In apparent recognition that neither the customer ID nor customer purchase history constitutes the NID, the Examiner takes yet another position and responds to the Applicant's arguments by suggesting that the NID is “information also containing hyperlinks to sites established by individual manufactures [sic] and retailers.” Final Rejection, page 12. However, the Examiner provides no explanation for this argument. Rather, he simply refers to Figure 10, and its associated discussion in the specification. Neither Figure 10 nor its associated description, however, indicate that information containing hyperlinks to sites established by manufacturers or retailers constitutes an identifier of the network server computer through which a request is made for access to an incentive host server, or that this hyperlink is used by an incentive host server to filter coupons based on a particular request. Moreover, individual manufacturer websites would not be a common incentive host server.

The Examiner points to no evidence in Scroggie which even suggests using hyperlinks to filter (e.g., include or exclude) certain incentives that should be made available to the consumer based on a request for access to an incentive host server.

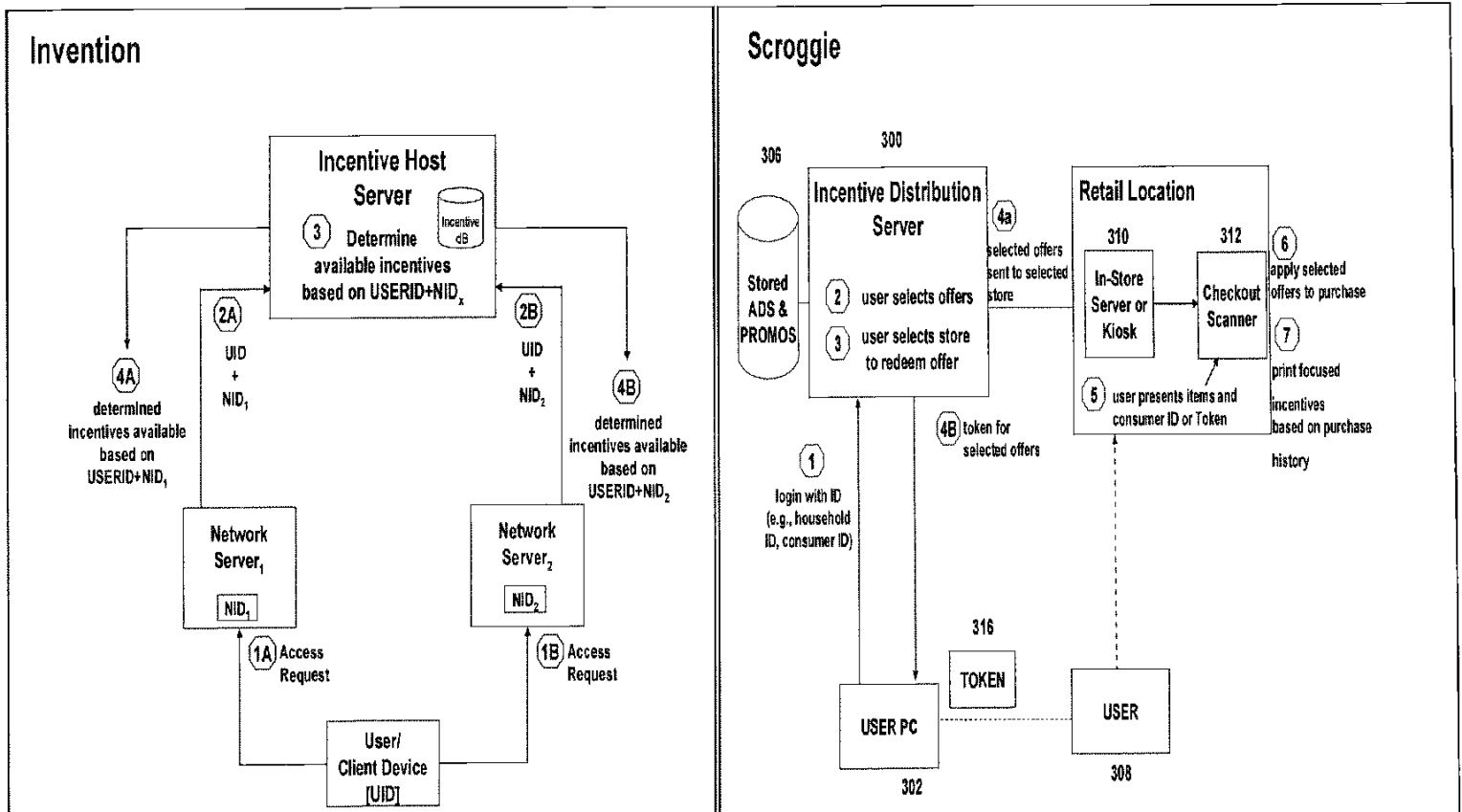
Scroggie discloses that it can enable consumers “to select coupon offers, rebate offers, or information offers made available by the manufacturers.” Scroggie, col. 5, lines 64-66. However, this does not indicate or suggest that such offers are made available (or not) to the consumers based on a NID. Quite the opposite, Scroggie seems to teach away from Applicant's



invention if *all* offers made available by the manufacturer are made available to all of the consumers.

Another significant factor, overlooked by the Examiner, is that the architecture of Scroggie is not the same as that of the claimed invention. This distinction is important and is related to the NID argument. In Scroggie, the user accesses the incentive distribution server 300 directly, NOT through one of a plurality of network of servers, within an incentive network, as claimed. Thus, there is no reason to even use a NID in Scroggie.

A side-by-side comparison of the infrastructure/processes used by Applicant and Scroggie, for determining which incentives to make available to consumers, highlights certain differences between the prior art and the claimed invention with respect to the use of a NID.



On the one hand, in the claimed invention, at least a first network server or a second network server may receive an access request from the user or his device (step 1a or 1b). In either case, a first ID (UID) stored on the device through which the access request is made is sent to the first or second network server along with the request. Then the first or second network server sends this UID plus its own NID (either NID<sub>1</sub> or NID<sub>2</sub>) to the incentive host server (step 2a or 2b). Thus, if the request is made through the first network server, the incentive host server receives the UID plus the NID<sub>1</sub>. If the request is made through the second network server, the incentive host server receives the UID plus NID<sub>2</sub>. Based on this, the incentive host server can determine the appropriate set of coupons to display to the consumer in response to the request, taking into account any inclusions and exclusions based at least on the appropriate NID (and if desired, UID). The available incentives are then determined (step 3) and transmitted to the user (step 4a or 4b) so that the user can select the desired ones of the incentives determined by the incentive host server to be available for that UID/NID combination.

In contrast, in Scroggie, the consumer must log directly into the incentive distribution server 300 via a user PC (step 1) and then select offers (step 2). After the user selects the desired incentives, the user can elect how the incentives are to be transmitted (and if desired to which store). If the user selects a store at which to redeem the offer (step 3), the offers are then either sent to the retail location or a token is sent to the user (step 4a or 4b). The user then presents items and/or a token at a checkout scanner in order to redeem the incentives (step 5). The determination of where to send the coupons is made after the incentive distribution server decides which incentives to display and the user selects the desired incentives. There is no determination of available incentives being made based on a NID. In part, this is because, in

Scroggie, there are no intermediate network servers through which the user makes a request for access to the incentive host server 300. In the claimed invention, the NID can be used to filter the incentives that are made available in response to the request. This specific type of NID filtering is completely absent from Scroggie and is inapplicable because there are no intermediate network servers.

For at least the foregoing reasons, the Examiner has legally erred in rejecting claims 1-36, 39-41, 44-50 and 52-59 under 35 U.S.C. §102(e) as being anticipated over Scroggie, and the rejection must be reversed.

**2. Scroggie Does Not Teach or Suggest The Use of an Incentive Host Server and At Least Two, or a Plurality of, Network Servers**

Most of the independent claims recite having an incentive host server and/or at least two network servers. *See* claims 1, 8, 11, 18, (“at least one incentive host server and at least two network servers”); claims 21, 44 (“a host server” and “a plurality of network servers”); claims 34 (“a host server”); claim 39 (“an incentive host server” and “a plurality of network servers”) claim 48 (“a plurality of network server identifiers”); claim 53 (“a plurality of network servers”) and claims 54, 57 (“an incentive host server” and “at least two incentive network servers”).

In contrast, Scroggie fails to teach the use of at least two incentive network servers (e.g., website hosts) in its system, much less two such servers for the purposes addressed by Appellant's invention. The Examiner argues that the incentive distribution server 300 constitutes one of the network servers and the point of sale *scanner* 312 constitutes the other network server. *See* Final Rejection, page 3 (“at least two network servers (300, 312 fig. 13)”; page 5 (“one of the networks servers (300, 312 FIG. 13)”; page 7 (“at least two incentive network servers (300 and 312 fig. 13)”; page 11 (“Examiner respectfully point outs [sic] that Scroggie discloses the computer network comprising at least one incentive host server (310 fig. 13) and at least two

network servers (300, 312, fig. 13)"). In other cases, the Examiner alleges that the in-store kiosk 310 qualifies as one of the claimed network servers. Final Rejection, page 6 ("plurality of network servers (310, 312 fig. 13)").

Regardless of this flip-flopping, none of the interpretations applied consistently (or logically) satisfy all of the elements of any claim. The Examiner has failed to identify any network server that provides a NID to an incentive host server for filtering incentives on a per request basis.

The plain language of Scroggie makes clear that element 300 in Scroggie is an "incentive distribution server." Yet the Examiner apparently recognizes that if the plain meaning is applied to this element then Scroggie does not anticipate the claims. Thus, the Examiner resorts to attempting to re-characterize this element as a network server. There are many problems with this. One problem is that this element 300 is not a network server as that term is used in the claims. For example, it is not disclosed as having a NID. Additionally, it does not receive a request for access from a client device *and pass the request to an incentive host server*. Numerous other problems exist with this alleged interpretation.

Moreover, it is beyond cavil that a handheld bar code scanner is not an "incentive network server." This position would be untenable to a rational person of ordinary skill in the art. The Examiner provides absolutely no evidence or explanation as to why a scanner can be considered a "network server."<sup>7</sup> Even if it could be so interpreted, there is no disclosure that such a scanner has a NID that is used by incentive host server 300 to filter coupons.

A person of ordinary skill in the relevant art would recognize that scanner is simply a peripheral device that is used to read a bar code on a given product at the checkout line in the

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<sup>7</sup> Users do not make requests for access to incentives through the barcode scanner.

store. The Examiner points to no evidence to the contrary. In this sense, a scanner is like a keyboard or mouse – a device used to input data into a computer system. It is not a device through which a consumer makes requests for access to coupons from an incentive host server. It is far-fetched to call a scanner an incentive network server. Nor does the scanner of Scroggie provide information to an incentive host server to determine which incentives should be made available *based on a NID* as claimed. The need to resort to such creative mischaracterizations of elements highlights the weakness of the rejection.

Additionally, the in-store kiosk 310 of Scroggie is not an incentive host server as claimed. The in-store kiosk 310 merely functions to facilitate an in-store checkout process. At the incentive distribution server 300, a customer can select incentive data and a retail location (e.g., a store) at which the customer plans to make use of the selected incentive data. The in-store kiosk 310 of the selected store receives the selected incentive data from the server 300 and saves the incentive data so that the customer may checkout using selected coupons when the customer visits the store. A NID is not transmitted to the in-store kiosk 310, nor does the kiosk determine available incentives based on an NID. Rather, the in-store kiosk acts as an in-store storage site to facilitate the checkout process without a physical coupon. See Scroggie at col. 11 lines 41-63. The Examiner ignores the overall claim elements in arbitrarily calling in-store kiosk 310 an incentive host server.

For at least these reasons, the in-store kiosk 310 is not an incentive host server as claimed. In Scroggie, the incentive distribution server 300 is most applicable to the claimed incentive host server, but does not satisfy all of the recitations relating thereto. In the claimed invention, the incentive host server makes determinations about which incentives are to be made available to the consumer for a given request depending upon the network through which an

access request is made and UID information. In stark contrast, in Scroggie, the user PC communicates directly with the incentive distribution server 300, and there is no intermediate access through a network server having a NID. In Scroggie, the incentive distribution server 300 is the structure that makes a determination of what incentives to display to a user as being available based on a particular request and from which the user can make a selection. As a result, Scroggie discloses a system in which the user selects the incentives available based on a direct request to the incentive distribution server. In the side by side illustration provided above, *compare* steps 1a-4b of Applicant's invention to steps 1-4b of Scroggie. There are no networks servers through which requests are made, much less such servers that have their own NIDS used for filtering based on the network server through which the request was made.

For at least these reasons, Scroggie does not disclose the use of at least two or a plurality of network servers. Thus, the Examiner erred in rejecting the claims as being anticipated over Scroggie, and the rejection must be reversed.

**3. Scroggie Does not Teach or Suggest all the features of the independent claims**

While the foregoing arguments are applicable to various ones of each of the independent claims, the following identify additional elements of the independent claims that are also not found in Scroggie.

**a. Independent claims 1, 8, 11 and 18**

With respect to claim 1, Scroggie fails to disclose: "receiving, at a network server, an access request from a client device associated with the user" and "transmitting a first identifier and a network server identifier (NID) corresponding to the access request to the incentive host server." Claims 8, 11, and 18 disclose similar features. Scroggie fails to disclose transmitting at least a network server identifier corresponding to the access request.

The Examiner attempts to analogize a customer ID to a network server identifier. See Final Action, pg. 3, lines 4-5. It is quite clear from the plain meaning of customer ID that it relates to a customer and is not a network server identifier.

The Examiner, in another instance, attempts to analogize a hyperlink to a network server identifier. See Final Action, pg. 12, line 4-5. Scroggie discloses a hyperlink to manufacturer and retailer websites after a final list of incentive data is displayed to the user. See Scroggie, col. 9, lines 50-54. The user can click on the link and be directed to the respective external website. A hyperlink does not satisfy the network server identifier, as claimed. In Scroggie the hyperlink is used to direct a user to a website, whereas the claim recites "transmitting...a network server identifier corresponding to the access request to the incentive host server." The hyperlink neither corresponds to the access request nor is it transmitted to an incentive host server. Rather, the hyperlink corresponds directly to a website and is transmitted directly to a user, not an incentive host server. Other differences exist.

Based on the foregoing, the rejection fails to anticipate each and every claim feature as required under §102. Thus, the Examiner erred in rejecting the claims as being anticipated over Scroggie, and the rejection must be reversed.

**b. Independent claim 21:**

Claim 21 recites, among other things, "a plurality of network servers coupled to and *selectively accessible* to the *host server* for providing identifying information including a first identifier and a network server identifier to the host server, wherein the identifying information is used by the incentive distribution module, at least in part, to identify available incentives associated with the NID."

The claimed invention provides selectively accessible network servers which provide consumers with more than one avenue to participate in the incentive system and may result in different incentives based on the identifiers (NIDs) associated with the different selectively accessible network servers in the incentive network. In this regard, the incentive system may return different incentives based on which of the selectively accessible network servers a user visits.

In Scroggie, the user accesses the incentive distribution server 300 directly, not through one of a plurality of network of servers selectively accessible to the host server, within an incentive network, as claimed. There is no use for a NID within Scroggie, nor disclosure of use of a NID in the manner claimed. The Examiner fails to even address the latter claim feature of “wherein the identifying information is used by the incentive distribution module, at least in part, to identify available incentives associated with the NID.”

Based on the foregoing, the rejection fails to anticipate each and every claim feature as required under §102. Thus, the Examiner erred in rejecting the claims as being anticipated over Scroggie, and the rejection must be reversed.

**c. Independent claims 34, 39, 52 and 53**

Claim 34 recites, “receiving a request for a *document associated with a network server* from a client device” and “receiving, by a host server, information regarding the document request, wherein the received information includes a network server identifier (NID) associated with the network server.” Claims 39, 52, and 53 recite similar features.

The Examiner fails to address these claim features. Rather the Examiner attempts to lump the rejection of claims 34, 39, 52, and 53 with claim 21 and thus fails to address the features of each claim. See Final Action pg. 6 line 14- pg. 7 line 7. Nonetheless, Scroggie does not disclose



receiving a request for a document associated with a network server and receiving, at the host server, information regarding the document request including a NID associated with the network server. Scroggie discloses a user PC 302 accessing an incentive distribution server 300 directly to access incentive data. Scroggie is devoid of any teaching or suggestion regarding a host server receiving information regarding a document request including a NID associated with the network server from which the request was made.

Based on the foregoing, the rejection fails to anticipate each and every claim feature as required under §102. Thus, the Examiner erred in rejecting the claims as being anticipated over Scroggie, and the rejection must be reversed.

**d. Independent claim 44**

Claim 44 recites, among other things “a client device associated for accessing the network; a plurality of network servers for providing web pages” and “wherein the host server is capable of receiving a *network server identifier associated with at least one of the network servers*, receiving a *first identifier stored on the client device*.”

The Examiner groups the rejection for claim 44 with claim 21. In doing so, the Examiner neglects to address the particular claim features found in claim 44 including a host server receiving “a network server identifier associated with at least one of the network servers” and “a first identifier stored on the client device.” Nonetheless, Scroggie fails to disclose a network server identifier and a separate first identifier received at a host server. In the present invention both pieces of information can be used to determine available incentives at a host server. In Scroggie a user directly accesses an incentive distribution server 300 to select incentives. A first identifier and a network server identifier are not received at the incentive distribution server 300 or any server within the system disclosed by Scroggie.

Based on the foregoing, the rejection fails to anticipate each and every claim feature as required under §102. Thus, the Examiner erred in rejecting the claims as being anticipated over Scroggie, and the rejection must be reversed.

**e. Independent claim 48**

Claim 48 recites “one or more databases for storing information regarding a plurality of coupons, *a plurality of first identifiers, and a plurality of network server identifiers.*”

The Examiner states that Scroggie discloses one or more databases for storing information related to coupons. See Final Action, pg. 7, lines 3-4. The Examiner's rejection fails to address all the claim features of claim 48 including a database for storing information regarding a plurality of first identifiers and a plurality of network server identifiers. Even if the Scroggie discloses a database storing information related to coupons (which is not admitted), Scroggie is still devoid of any teachings regarding a database storing first identifiers and a plurality of network server identifiers, as claimed.

Based on the foregoing, the rejection fails to anticipate each and every claim feature as required under §102. Thus, the Examiner erred in rejecting the claims as being anticipated over Scroggie, and the rejection must be reversed.

**f. Independent claims 54 and 57**

Claim 54 and 57 recites “an incentive host server comprising: an incentive database... a registration module...and an incentive determination module.” For claims 54 and 57 the Examiner attempts to analogize the incentive host server to the in-store kiosk 310 disclosed in Scroggie. For at least the reasons give above (see Section VII.B.2.), the in-store kiosk 310 is not an incentive host server, as claimed. In addition, claims 54 and 57 recite “an incentive host server comprising: “an incentive database, a registration module, and an incentive determination

module. The in-store kiosk 310 is a storage site to facilitate the checkout process without a physical coupon and does not include at least a registration module and incentive determination module.

Claim 57 further recites, among other things: "incentive host server comprises...a network interface for receiving from any of the incentive network servers a request for access to at least some of the stored incentives, and for receiving with the request a Network ID (NID) associated with the incentive network server from which the request is received." The in-store kiosk 310 in Scroggie does not receive a request from a network server for access to stored incentives and for receiving an NID of the network server with the request. Rather, the in-store kiosk 310 is used to receive incentive data from an incentive distribution server 300, NOT a request from a network server. At best, the in-store kiosk communicates with a checkout terminal to supply pre-selected incentive data that can be used to complete a checkout process. See Scroggie, col. 11 lines 57-63. As such, the in-store kiosk 310 is not an incentive host server as claimed.

Based on the foregoing, the rejection fails to anticipate each and every claim feature as required under §102. Thus, the Examiner erred in rejecting the claims as being anticipated over Scroggie, and the rejection must be reversed.

#### **4. Scroggie Does not Teach or Suggest the features of the Dependent claims**

Dependent claims 2-7, 9, 10, 12-17, 19, 20, 22-33, 35, 36, 40, 41, 43, 45-47, 49-50, 55, 56, 58, and 59 depend from and add additional features to one of independent claims 1, 8, 11, 18, 21, 34, 39, 44, 48, 52, 53, 54, and 57. Thus, at least by virtue of their dependency and the additional features that they add, claims 2-7, 9, 10, 12-17, 19, 20, 22-33, 35, 36, 40, 41, 43, 45-

47, 49-50, 55, 56, 58, and 59 are patentable over Scroggie. The following addresses specific dependent claim features.

**a. Dependent claims 3 and 13**

Dependent claim 3 recites, “determining whether an indication exists that the user subscribes to receive information associated with available incentives.” Similarly, claim 13 recites, “subscriber determining means for determining whether an indication exists that the user subscribes to receive information associated with available incentives.” The Examiner has failed to demonstrate that Scroggie discloses these features. For at least this reason the rejection of claims 3 and 13 based on Scroggie should be reversed.

**b. Dependent claims 4 and 14**

Dependent claim 4 recites, “wherein determining whether an indication exists that the user subscribes to receive information associated with available incentives, includes: transmitting a subscriber request to the client device; and receiving a response from the client device, including the first identifier.” Similarly, dependent claim 14 recites, “wherein the subscriber determining means includes: request transmitting means for transmitting a subscriber request to the client device; and response receiving means for receiving a response from the client device, including the first identifier.” The Examiner has failed to demonstrate that Scroggie discloses these features. For at least this reason the rejection of claims 4 and 14 based on Scroggie should be reversed.

**c. Dependent claims 5, 6, 15, and 16**

Dependent claim 5 recites, “transmitting an *identifier corresponding to the client device* to the incentive host server; and transmitting a *network server identifier corresponding to the network server*.” Similarly dependent claim 15 recites, “identification transmitting means for

transmitting an *identifier corresponding to the client device* to the incentive host server and transmitting a *network server identifier corresponding to the network server*.” Claims 6 and 16 depend from claims 5 and 15, respectively.

With respect to claim 5 and 15, the Examiner cites to Fig. 13, col. 6, lines 1-64, and col. 12, lines 7-51 of Scroggie’s disclosure. See Final Action at pg. 4, second paragraph. None of these sections, or any part of Scroggie, disclose at least an identifier corresponding to the client device and a network server identifier corresponding to the network server. At best, Scroggie discloses a household or customer ID. These types of IDs, however, function to identify a customer or household and not the client device.

Furthermore, Scroggie is devoid of any teaching regarding a network server identifier corresponding to the network server, as claimed. Scroggie fails to disclose a system that uses an identifier corresponding to a client device and a separate network server identifier to make a determination of available incentives.

Based on the foregoing, the rejection fails to anticipate each and every claim feature as required under §102. Thus, the Examiner erred in rejecting the claims as being anticipated over Scroggie, and the rejection must be reversed.

**d. Dependent claims 6 and 16**

Claim 6 recites, “wherein determining available incentives, includes: receiving incentive information reflecting a selection of incentives based on at least one of the identifier corresponding to the client device and the network server identifier corresponding to the network server.” Similarly, claim 16 recites, “wherein the incentive information determining means includes: incentive obtaining means for obtaining incentive information reflecting a selection of incentives based on at least one of the network server identifier and the identifier corresponding

to the client device.” The Examiner has failed to demonstrate that Scroggie discloses these features. For at least this reason the rejection of claims 6 and 16 based on Scroggie should be reversed.

**e. Dependent claim 7**

Dependent claim 7 recites, “wherein the first identifier corresponds to the device associated with the user.” Scroggie fails to disclose an identifier that corresponds to the *device* associated with the user. Rather, Scroggie discloses identifiers which identify the customer or their payment method. For example, Scroggie discloses a customer ID or household ID used to log-in to a system. See Scroggie, col. 9 lines 15-40. In another instance, Scroggie discloses a unique customer identification used during a purchasing transaction including a check-cashing card, a credit card, or a magnetically encoded check. See Scroggie, col. 4 lines 33-39 and col. 12 lines 14-22. Scroggie is devoid of any teaching that discloses an identifier corresponding to the device associated with the user.

Based on the foregoing, the rejection fails to anticipate each and every claim feature as required under §102. Thus, the Examiner erred in rejecting the claims as being anticipated over Scroggie, and the rejection must be reversed.

**f. Dependent claims 10 and 20**

Dependent claim 10 a method for determining available incentives using at least the first identifier and the NID, including: “receiving incentive information reflecting a server identification associated with the server, wherein the network server provides the NID to the incentive host server for identification of the incentive information.” Similarly claim 20 recites, “wherein the network server provides the NID to the incentive host server for identification of the incentive information.”

Scroggie fails to disclose receiving incentive information reflecting a server identification associated with the server. Rather, Scroggie discloses a user communicating directly to an incentive distribution server 300 for selecting incentive data via a browser interface. See Scroggie, col. 7, lines 52-61. The selected incentive data is sent to an in-store server 310. The Examiner points to nothing in Scroggie showing that the incentive information received at the in-store server 310, or even at the incentive distribution server 300, reflect a server identification associated with a network server. In Scroggie, the incentive information reflects a user's direct selection, NOT network server identification (NID) provided to an incentive host server.

Based on the foregoing, the rejection fails to anticipate each and every claim feature as required under §102. Thus, the Examiner erred in rejecting the claims as being anticipated over Scroggie, and the rejection must be reversed.

**g. Dependent claim 17**

Claim 17 recites, "wherein the incentive information determining means includes: subscriber transmitting means for transmitting the identifier corresponding to the client device to the incentive host server." The Examiner has failed to demonstrate that Scroggie discloses these features. For at least this reason the rejection of claim 17 based on Scroggie should be reversed.

**h. Dependent claims 35, 36, 40, 41, 45, 46, and 49-51**

Claim 35 recites, "transmitting a request to the client device for information to create an account; receiving, in response to the transmitted request, information regarding the account; determining a first identifier; and transmitting the determined first identifier *to the client device*." Claim 40 recites, "transmitting a request to the client device for information to create an account; receiving, in response to the transmitted request, information regarding the account; determining a first identifier; and transmitting the first identifier *to the client device*." Claim 45 recites,

“wherein the host server is further capable of transmitting a request to the client device for information to create an account, receiving from the client device, in response to the transmitted request, information regarding the account, determining the first identifier, and *transmitting to the client device the first identifier.*” Claim 49 recites, “*transmitting a first identifier to the client device such that the client device stores the first identifier.*” The Examiner alleges that Scroggie discloses these features at column 6, line 35 to column 7, line 52.

At best, the cited portion of Scroggie discloses that users may enter a ZIP code or other postal code to access the system. Upon entry, the entered code may be transmitted *from* the kiosk. However, this passage does not disclose transmitting a determined identifier *to* a client device, much less storing the identifier on a client device. For at least this reason the rejection of claim 35 based on Scroggie is improper and should be reversed.

Dependent claims 36, 41, 46, 50, and 51 depend from corresponding ones of claims 35, 40, 45, and 49. Therefore the rejection of claims 36, 41, 46, 50, and 51 based on Scroggie should be reversed based on their dependency, as well as for the features that they recites individually.

**i. Dependent claim 55**

Claim 55 recites, “wherein the incentive determination module transmits information about the incentives determined to be currently available to a client device having the UID associated with the received request.” The Examiner has failed to demonstrate that Scroggie discloses these features. For at least this reason the rejection of claim 55 based on Scroggie should be reversed.

**j. Dependent claim 56**

Claim 56 recites, “wherein the incentive determination module transmits information about the incentives determined to be currently available to the incentive network server having



the NID associated with the received request. The Examiner alleges that Scroggie discloses this feature from column 8, line 53 to column 9, line 40, and from column 12, line 43 to column 13, line 35.

At best, these portions of Scroggie disclose enabling a user to enter a ZIP code, a postal code, or other information in order to obtain incentives. However, the cited passages of Scroggie do not disclose an NID, much less determining available incentives based on the NID. For at least this reason the rejection of claim 56 based on Scroggie should be reversed.

**k. Dependent claims 58 and 59**

Claim 58 recites, “wherein the information about the incentives determined to be currently available to the UID and NID combination is transmitted to a client device having the UID associated with the client device from which the request was initiated.” Claim 59 recites, “wherein the information about the incentives determined to be currently available to the UID and NID combination is transmitted to the incentive network server having the NID associated with the received request.” The Examiner has failed to demonstrate that Scroggie discloses determining information regarding available incentives based on a UID and an NID, and transmitting the determined information. For at least this reason the rejection of claims 55 and 56 based on Scroggie should be reversed.

**C. Scroggie and Gardenswartz Do Not Render Obvious the Inventions Recited in Claims 37, 38, 42, 43 and 51**

The rejection of dependent claims 37, 38, 42, 43 and 51 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Scroggie in view of Gardenswartz. (*See* Final Rejection, page 10) is legally improper. The Examiner does not rely on Gardenswartz to reject any of the

independent claims. Thus, each of dependent claims 37, 38, 42, 43 and 51 are allowable for at least the reasons set forth with respect to the claims from which they depend.

**VIII. 37 C.F.R. §41.37(c)(1)(viii) - CLAIMS APPENDIX**

**Appendix A:** The pending claims (claims 1-59) are attached in **Appendix A**.

**IX. 37 C.F.R. §41.37(c)(1)(ix) - EVIDENCE APPENDIX**

**Appendix B: (None)**

**X. 37 C.F.R. §41.37(c)(1)(x) - RELATED PROCEEDINGS INDEX**

**Appendix C: (None)**


CONCLUSION

For at least the foregoing reasons, Appellants respectfully request that the rejections of each of pending claims 1-59 be reversed.

Date: **July 3, 2006**

Respectfully submitted,

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**Appendix A**

1. ***(Previously Presented)*** A computer implemented method for providing access to incentives via a computer network, the computer network comprising at least one incentive host server and at least two network servers for providing a user with access to incentives from the incentive host server, comprising:

receiving, at a network server, an access request from a client device associated with the user;

transmitting a first identifier and a network server identifier (NID) corresponding to the access request to the incentive host server;

determining at the incentive host server available incentives using at least the first identifier and the NID, wherein the NID is used to identify available incentives in an incentive server database associated with the NID; and

transmitting information regarding the determined available incentives to the client device.

2. ***(Previously Presented)*** The method of claim 1, wherein receiving the access request from the client device, includes:

receiving a request for a document stored at least in part on the network server.

3. ***(Previously Presented)*** The method of claim 1, further comprising:

determining whether an indication exists that the user subscribes to receive information associated with available incentives.

4. *(Previously Presented)* The method of claim 3, wherein determining whether an indication exists that the user subscribes to receive information associated with available incentives, includes:

transmitting a subscriber request to the client device; and

receiving a response from the client device, including the first identifier.

5. *(Previously Presented)* The method of claim 1, wherein transmitting the first identifier and the NID to the incentive host server includes:

transmitting an identifier corresponding to the client device to the incentive host server;

and

transmitting a network server identifier corresponding to the network server.

6. *(Previously Presented)* The method of claim 5, wherein determining available incentives, includes:

receiving incentive information reflecting a selection of incentives based on at least one of the identifier corresponding to the client device and the network server identifier corresponding to the network server.

7. *(Previously Presented)* The method of claim 1, wherein the first identifier corresponds to the device associated with the user.

8. *(Previously Presented)* A computer-implemented method for providing access to incentives via a computer network, the computer network comprising at least one incentive host

server and at least two network servers for providing a user with access to incentives from the incentive host server, comprising:

transmitting an access request to access one of the network servers in the network;

transmitting a first identifier and a network server identifier (NID) corresponding to the access request to the incentive host server; and

determining available incentives using at least the first identifier and the NID, wherein an incentive host server identifies available incentives in an incentive server database associated with the NID.

9. ***(Previously Presented)*** The method of claim 8, wherein transmitting the access request to access one of the network servers, includes:

providing a browser enabling a user to formulate and transmit the access request.

10. ***(Previously Presented)*** The method of claim 8, wherein determining available incentives using at least the first identifier and the NID, includes:

receiving incentive information reflecting a server identification associated with the server, wherein the network server provides the NID to the incentive host server for identification of the incentive information.

11. ***(Previously Presented)*** A system for providing access to incentives via a computer network, the computer network comprising at least one incentive host server and at least two network servers for providing a user with access to incentives from the incentive host server, comprising:

access request receiving means for receiving, at a network server, an access request from a client device associated with at least one user;

identifying information transmitting means for transmitting a first identifier and a network server identifier (NID) corresponding to the access request to an incentive host server;

incentive information determining means for determining available incentives using the NID and the first identifier, wherein the NID is used to identify available incentives in an incentive server database associated with the NID; and

incentive transmitting means for transmitting information regarding the determined available incentives to the client device.

12. ***(Previously Presented)*** The system of claim 11, wherein the access request receiving means includes:

partial document receiving means for receiving a request for a document stored at least in part on the network server.

13. ***(Previously Presented)*** The system of claim 11, wherein the identifying information transmitting means includes:

subscriber determining means for determining whether an indication exists that the user subscribes to receive information associated with available incentives.

14. ***(Previously Presented)*** The system of claim 13, wherein the subscriber determining means includes:

request transmitting means for transmitting a subscriber request to the client device; and

response receiving means for receiving a response from the client device, including the first identifier.

15. *(Previously Presented)* The system of claim 11, wherein the identifying information transmitting means includes:

identification transmitting means for transmitting an identifier corresponding to the client device to the incentive host server and transmitting a network server identifier corresponding to the network server.

16. *(Previously Presented)* The system of claim 15, wherein the incentive information determining means includes:

incentive obtaining means for obtaining incentive information reflecting a selection of incentives based on at least one of the network server identifier and the identifier corresponding to the client device.

17. *(Previously Presented)* The system of claim 11, wherein the incentive information determining means includes:

subscriber transmitting means for transmitting the identifier corresponding to the client device to the incentive host server.

18. *(Previously Presented)* A system for providing access to incentives via a computer network, the computer network comprising at least one incentive host server and at least two network servers for providing a user with access to incentives from the incentive host server, comprising:



access request transmitting means for transmitting an access request to access a network server in the network;

user request receiving means for receiving a user request for a first identifier associated with the access request;

transmitting means for transmitting the first identifier and a network server identifier (NID) to the incentive host server; and

incentive information determining means for determining, in response to the access request, available incentives using the first identifier and the NID, wherein the incentive host server identifies available incentives associated with the NID.

19. ***(Previously Presented)*** The system of claim 18, wherein the access request transmitting means includes:

a browser for enabling a user to formulate and transmit the access request.

20. ***(Previously Presented)*** The system of claim 18, wherein the network server provides the NID to the incentive host server for identification of the incentive information.

21. ***(Previously Presented)*** A system for distributing information in a network, comprising:

a host server having at least one of an incentive distribution module and an account creation module accessible to a plurality of users;

a plurality of network servers coupled to and selectively accessible to the host server for providing identifying information including a first identifier and a network server identifier

(NID) to the host server, wherein the identifying information is used by the incentive distribution module, at least in part, to identify available incentives associated with the NID; and at least one client machine coupled to and selectively accessible to at least one of the plurality of network servers for accessing network documents, wherein when at least one user causes the at least one client machine to access one of the plurality of network servers, the accessed network server communicates with the host server to obtain data corresponding to the at least one user, and wherein the at least one client machine is adapted to present the data from the host to the at least one user.

22. ***(Previously Presented)*** The computer implemented method of claim 1, wherein the available incentives include coupons.

23. ***(Previously Presented)*** The computer implemented method of claim 1, wherein the available incentives include discounts.

24. ***(Previously Presented)*** The computer implemented method of claim 1, wherein the available incentives include awards.

25. ***(Previously Presented)*** The computer implemented method of claim 8, wherein the available incentives include coupons.

26. ***(Previously Presented)*** The computer implemented method of claim 8, wherein the available incentives include discounts.

27.     ***(Previously Presented)*** The computer implemented method of claim 8, wherein the available incentives include awards.
28.     ***(Previously Presented)*** The system of claim 11, wherein the available incentives include coupons.
29.     ***(Previously Presented)*** The system of claim 11, wherein the available incentives include discounts.
30.     ***(Previously Presented)*** The system of claim 11, wherein the available incentives include awards.
31.     ***(Previously Presented)*** The system of claim 21, wherein the available incentives include coupons.
32.     ***(Previously Presented)*** The system of claim 21, wherein the available incentives include discounts.
33.     ***(Previously Presented)*** The system of claim 21, wherein the available incentives include awards.

34. ***(Previously Presented)*** A computer-implemented method for providing coupons over a network, comprising:

receiving a request for a document associated with a network server from a client device ;

receiving, by a host server, information regarding the document request, wherein the received information includes a network server identifier (NID) associated with the network server;

receiving, by the host server, a first identifier stored by the client device;

determining, at the host server, information regarding a set of one or more coupons from a plurality of coupons based at least in part on the NID and the first identifier; and

transmitting, to the client device, at least some of the information regarding the set of one or more coupons.

35. ***(Previously Presented)*** The method of claim 34, further comprising:

transmitting a request to the client device for information to create an account;

receiving, in response to the transmitted request, information regarding the account;

determining a first identifier; and

transmitting the determined first identifier to the client device.

36. ***(Previously Presented)*** The method of claim 35, wherein the step of transmitting a request to the client device for information to create the account further comprises transmitting a registration form; and

wherein the step of receiving information regarding the account further comprises receiving information in response to the transmitted registration form.

37. *(Previously Presented)* The method of claim 36, wherein the account includes demographic information regarding a user.
38. *(Previously Presented)* The method of claim 34, wherein the requested document associated with the network server is stored, at least in part, on the network server.
39. *(Previously Presented)* A computer-implemented method performed by an incentive host server for providing coupons over a network, comprising:
- receiving information regarding a request from a client device for a document received at one of a plurality of network servers, wherein the information received by the incentive host server includes a network server identifier corresponding to the one of the plurality of network servers;
  - receiving a first identifier stored by the client device;
  - determining information regarding a set of one or more coupons from a plurality of coupons based at least in part on the network server identifier and the first identifier;
  - transmitting at least some of the information regarding the set of one or more coupons to the client device.
40. *(Previously Presented)* The method of claim 39, further comprising:
- transmitting a request to the client device for information to create an account;
  - receiving, in response to the transmitted request, information regarding the account;
  - determining a first identifier; and

transmitting the first identifier to the client device.

41. *(Previously Presented)* The method of claim 40, wherein the step of transmitting a request to the client device for information to create the account further comprises transmitting a registration form; and wherein the step of receiving information regarding the account further comprises receiving information in response to the transmitted registration form.

42. *(Previously Presented)* The method of claim 41, wherein the account includes demographic information regarding a user.

43. *(Previously Presented)* The method of claim 39, wherein the requested document associated with the one of the plurality of network servers is stored, at least in part, on the one of the plurality of network servers.

44. *(Previously Presented)* A system for providing coupons via a network, comprising:  
a client device associated for accessing the network;  
a plurality of network servers for providing web pages;  
a host server storing information regarding a plurality of coupons; and  
wherein the host server is capable of receiving a network server identifier associated with at least one of the network servers, receiving a first identifier stored on the client device, determining information regarding a set of one or more coupons from the plurality of coupons based at least in part on the network server identifier and the first identifier, and transmitting at

least some of the determined information regarding the set of one or more coupons to the client device.

45. **(Previously Presented)** The system of claim 44, wherein the client device includes software capable of determining if the first identifier is stored on the client device; and

wherein the host server is further capable of transmitting a request to the client device for information to create an account, receiving from the client device, in response to the transmitted request, information regarding the account, determining the first identifier, and transmitting to the client device the first identifier.

46. **(Previously Presented)** The system of claim 45, wherein the host server is further capable of transmitting a registration form and receiving information from the client device in response to the transmitted registration form.

47. **(Previously Presented)** The system of claim 45, wherein the account includes demographic information regarding a user.

48. **(Previously Presented)** A system for providing coupons over a network, comprising:  
one or more databases for storing information regarding a plurality of coupons, a plurality of first identifiers, and a plurality of network server identifiers; and  
one or more processors capable of performing a method comprising the steps of:

receiving a request for information regarding one or more coupons, wherein the received request includes a network server identification associated with at least one network server;

receiving a first identifier stored by the client device;

determining information regarding one or more coupons based at least in part on the received network server identification and first identifier; and

transmitting at least some of the determined information.

49. *(Previously Presented)* The system of claim 48, wherein the one or more processors are further capable of performing a method comprising the steps of:

receiving a subscription request from a client device; and

transmitting a first identifier to the client device such that the client device stores the first identifier.

50. *(Previously Presented)* The system of claim 49, wherein the one or more processors are further capable of performing a method comprising the steps of transmitting a registration form to the client device; and receiving information from the client device in response to transmitting the registration form.

51. *(Previously Presented)* The system of claim 50, wherein the information received in response to transmitting the registration form includes information regarding a user.

52. *(Previously Presented)* A system, comprising:



means for receiving a request for a document from a client device, wherein the requested document is associated with a network server;

means for receiving information regarding the document request, wherein the received information includes a network server identifier associated with the network server;

means for receiving a first identifier stored by the client device;

means for determining information regarding a set of one or more coupons from a plurality of coupons based at least in part on the network server identifier and the first identifier;  
and

means for transmitting to the client device at least some of the information regarding the set of one or more coupons.

53. ***(Previously Presented)*** A system, comprising:

means for receiving information regarding a request from a client device for a document received at one of a plurality of network servers, wherein the information includes a network server identifier associated with the network server;

means for receiving a first identifier stored by the client device;

means for determining information regarding a set of one or more coupons from a plurality of coupons based at least in part on the network server identifier and the first identifier;  
and

means for transmitting the information regarding the set of one or more coupons to the client device.

54. ***(Previously Presented)*** An incentive host server for use in an incentive network, the incentive network including the incentive host server and at least two incentive network servers, the incentive host server comprising:

an incentive database for storing incentives;

a registration module for receiving registration information from a client device, and for transmitting a Unique ID (UID) to the client device that submitted the registration information for storage on the client device to enable the UID to be subsequently used in connection with requesting incentives from any of the incentive network servers within the incentive network; and

an incentive determination module for:

- i) receiving a request for incentives from any of the incentive network servers;
- ii) receiving a UID and a Network ID (NID) associated with the request;
- iii) determining currently available incentives based on the UID and NID; and
- iv) transmitting information about the incentives determined to be currently available.

55. ***(Previously Presented)*** The incentive host server of claim 54, wherein the incentive determination module transmits information about the incentives determined to be currently available to a client device having the UID associated with the received request.

56. *(Previously Presented)* The incentive host server of claim 54, wherein the incentive determination module  
  
transmits information about the incentives determined to be currently available to the incentive network server having the NID associated with the received request.

57. *(Previously Presented)* An incentive network, comprising:  
  
an incentive host server;  
  
at least two incentive network servers, wherein an incentive network server comprises a network interface for receiving from a client device a request for access to incentives, and for communicating information about the request to the incentive host server; and

wherein the incentive host server comprises:

i) an incentive database for storing incentives;  
  
ii) a registration module for receiving registration information from a client device, and for transmitting a Unique ID (UID) to the client device that submitted the registration information for storage on the client device to enable the UID to be subsequently used in connection with requesting incentives from any of the incentive network servers within the incentive network;

iii) a network interface for receiving from any of the incentive network servers a request for access to at least some of the stored incentives, and for receiving with the request a Network ID (NID) associated with the incentive network server from which the request is received;

iv) an incentive determination module for determining currently available incentives based on the NID and a UID of the client device from which the request was initiated; and

v) means for transmitting information about the incentives determined to be currently available to the UID and NID combination.

58. *(Previously Presented)* The incentive network of claim 57, wherein the information about the incentives determined to be currently available to the UID and NID combination is transmitted to a client device having the UID associated with the client device from which the request was initiated.

59. *(Previously Presented)* The incentive network of claim 57, wherein the information about the incentives determined to be currently available to the UID and NID combination is transmitted to the incentive network server having the NID associated with the received request.

**Appendix B**

NONE

**Appendix C**

NONE

# ATTACHMENT A

